BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	)	
SURINDER KUMAR UPPAL, M.D.	)	Case No. 800-2015-014991
Physician's and Surgeon's Certificate No. A 35254	)	
Respondent	)	

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on September 15, 2017.

IT IS SO ORDERED: August 17, 2017.

MEDICAL BOARD OF CALIFORNIA

Michelle Anne Bholat MD

Michelle Anne Bholat, M.D., Chair
Panel B

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General
DEMOND L. PHILSON
Deputy Attorney General
State Bar No. 220220
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 322-9674
Facsimile: (916) 327-2247
Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **SURINDER KUMAR UPPAL, M.D.** **PO Box 1150** **Susanville, CA 96130-1150** **Physician's and Surgeon's Certificate No. A 35254** Respondent.	Case No. 800-2015-014991 OAH No. 2016110873 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Demond L. Philson, Deputy Attorney General.

2. Respondent Surinder Kumar Uppal, M.D. (Respondent) is represented in this proceeding by attorney Ivan Petrzelka, PharmD, JD, MBA, whose address is: P.O. Box 552 Red Bluff, CA 96080.

3. On or about May 5, 1980, the Board issued Physician's and Surgeon's Certificate No. A 35254 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2015-014991, and will expire on May 31, 2018, unless renewed.

JURISDICTION

4. Accusation No. 800-2015-014991 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on October 21, 2016. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2015-014991 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2015-014991. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent understands that the charges and allegations in Accusation No. 800-2015-014991, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a prima facie case with respect to the charges and allegations contained in Accusation No. 800-2015-014991 and that those charges and allegations constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

11. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2015-014991, shall be deemed true, correct, and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving respondent in the State of California.

12. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

13. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 35254 issued to Respondent Surinder Kumar Uppal, M.D. is revoked.

1. STANDARD STAY ORDER. However, revocation is stayed and Respondent is placed on probation for five (5) years upon the following terms and conditions.

2. CONTROLLED SUBSTANCES - PARTIAL RESTRICTION. Respondent shall not order, prescribe, dispense, administer, furnish, or possess any narcotic controlled substances listed in Schedule II of the California Uniform Controlled Substances Act.

Respondent shall not issue an oral or written recommendation or approval to a patient or a patient's primary caregiver for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5. If Respondent forms the medical opinion, after an appropriate prior examination and medical indication, that a patient's medical condition may benefit from the use of marijuana, Respondent shall so inform the patient and shall refer the patient to another physician who, following an appropriate prior examination and medical indication, may independently issue a medically appropriate recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5. In addition, Respondent shall inform the patient or the patient's primary caregiver that Respondent is prohibited from issuing a recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient and that the patient or the patient's primary caregiver may not rely on Respondent's statements to legally possess or cultivate marijuana for the personal medical purposes of the patient. Respondent shall fully document in the patient's chart that the patient or the patient's primary caregiver was so informed. Nothing in this condition prohibits Respondent from providing the patient or the patient's primary caregiver information about the possible medical benefits resulting from the use

of marijuana.

3. CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and address of the patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

4. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

5. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course

not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

In satisfaction of this condition, the Board hereby accepts the Physician Certificate of Credit for "Physician Prescribing Course" taken October 24-26, 2016, that was previously completed by the Respondent.

6. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of

this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

In satisfaction of this condition, the Board hereby accepts the Physician Certificate of Credit for "Medical Record Keeping Course" taken January 12-13, 2017, that was previously completed by the Respondent.

7. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

8. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Respondent shall successfully

complete the program not later than six (6) months after Respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require Respondent's on-site participation for a minimum of three (3) and no more than five (5) days as determined by the program for the assessment and clinical education evaluation. Respondent shall pay all expenses associated with the clinical competence assessment program.

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether the Respondent has demonstrated the ability to practice safely and independently. Based on Respondent's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, evaluation or treatment for any medical condition or psychological condition, or anything else affecting Respondent's practice of medicine. Respondent shall comply with the program's recommendations.

Determination as to whether Respondent successfully completed the clinical competence assessment program is solely within the program's jurisdiction.

If Respondent fails to enroll, participate in, or successfully complete the clinical competence assessment program within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed. If the Respondent did not successfully complete the clinical competence assessment program, the Respondent shall not resume the practice of medicine until a

final decision has been rendered on the accusation and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period.]

9. MONITORING - PRACTICE/BILLING. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor(s) shall submit a quarterly written report to the Board or its designee which

includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine, and whether Respondent is practicing medicine safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, Respondent may participate in a professional enhancement program approved in advance by the Board or its designee that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

10. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

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11. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

12. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

13. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

14. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

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Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event Respondent should leave the State of California to reside or to practice, Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

15. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

16. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Boards's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model

Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for a Respondent residing outside of California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

17. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

18. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

19. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the

application shall be treated as a petition for reinstatement of a revoked certificate.

20. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Ivan Petrzelka, PharmD, JD, MBA. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 5/11/17

SURINDER KUMAR UPPAL, M.D.
Respondent

I have read and fully discussed with Respondent Surinder Kumar Uppal, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: May 12, 2017

IVAN PETRZELKA, PHARMD, JD, MBA
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

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Dated: 5/16/17

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General

DEMOND L. PHILSON
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2015-014991

KAMALA D. HARRIS
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General
DEMOND L. PHILSON
Deputy Attorney General
California Department of Justice
State Bar No. 220220
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 322-9674
Facsimile: (916) 327-2247
Attorneys for Complainant Medical Board of California

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **Surinder Kumar Uppal, M.D.** P.O. Box 1150 Susanville, CA 96130-1150 Physician's and Surgeon's Certificate No. A 35254, **Respondent.**	Case No. 800-2015-014991 **ACCUSATION**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about May 5, 1980, the Board issued Physician's and Surgeon's Certificate No. A 35254 to Surinder Kumar Uppal, M.D. (respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2018, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

"(1) Have his or her license revoked upon order of the board.

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

"(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

"(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

"(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

"(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."

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5. Section 2234 of the Code states, in pertinent part:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"..."

6. Unprofessional conduct under section 2234 of the Code is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

7. Section 2241 of the Code states, in pertinent part:

"(a) A physician and surgeon may prescribe, dispense, or administer prescription drugs, including prescription controlled substances, to an addict under his

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or her treatment for a purpose other than maintenance on, or detoxification from, prescription drugs or controlled substances.

"(b) A physician and surgeon may prescribe, dispense, or administer prescription drugs or prescription controlled substances to an addict for purposes of maintenance on, or detoxification from, prescription drugs or controlled substances only as set forth in subdivision (c) or in Sections 11215, 11217, 11217.5, 11218, 11219, and 11220 of the Health and Safety Code. Nothing in this subdivision shall authorize a physician and surgeon to prescribe, dispense, or administer dangerous drugs or controlled substances to a person he or she knows or reasonably believes is using or will use the drugs or substances for a nonmedical purpose.

"..."

8. Section 2266 of the Code states:

"The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

9. Section 725 of the Code states, in pertinent part:

"(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language pathologist, or audiologist.

"..."

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

10. Respondent has subjected his Physician's and Surgeon's Certificate No. A 35254 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of

the Code, in that respondent committed gross negligence in his care and treatment of patients BS, KM, CT, and GN, as more particularly alleged below:[1]

11. On December 3, 2014, the Medical Board's Central Complaint Unit received a complaint stating "Dr. Surinder Uppal from Susanville over prescribes pain killers to all his patients. Someone needs to watch him."

Patient BS

12. On or about July 9, 2007, respondent began treating patient BS for, among other things, bilateral foot pain, plantar fasciitis, and back pain. Over the years, respondent prescribed patient BS various controlled substances, including but not limited to, varying amounts of Hydrocodone,[2] Oxycodone,[3] and Fentanyl.[4] Over the years, these medications provided limited relief, so respondent continued to prescribe increased doses to achieve adequate pain relief.

13. Between on or about September 29, 2010, through on or about September 29, 2015, respondent prescribed patient BS approximately 24 prescriptions of oxycodone for a total of 3,200 tablets.

14. Between on or about September 29, 2010, through on or about September 29, 2015, respondent prescribed patient BS approximately 34 prescriptions of a combination of acetaminophen and hydrocodone bitartrate for a total of 7,330 tablets.

15. Between on or about September 29, 2010, through on or about September 29, 2015, respondent prescribed patient BS approximately 47 prescriptions of Fentanyl for a total of 650 patches.

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[1] Conduct occurring more than seven (7) years from the filing date of this Accusation is for informational purposes only and is not alleged as a basis for disciplinary action.

[2] Hydrocodone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

[3] Oxycodone, brand name OxyContin, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

[4] Fentanyl, brand name Duragesic, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (c), and a dangerous drug pursuant to Business and Professions Code section 4022.

16. Beginning around 2007, respondent had contact with patient BS on a regular basis approximately every three weeks. Between 2008 and 2013, respondent saw patient BS approximately eighty-eight (88) times.

17. Between on or about January 2008, through on or about June 2014, patient BS requested early refills of his medications or an increase in his medications on nine occasions. During several office visits, patient BS admitted taking more medication per day than prescribed.

18. On or about September 8, 2008, patient BS claimed he flushed his medications down the toilet.

19. On or about November 24, 2008, patient BS was brought in by his wife to see respondent because he was lethargic and seemed to be experiencing withdrawal symptoms.

20. On or about December 10, 2010, patient BS requested an early refill stating he was going out of town and claimed his Fentanyl patches fell off in the shower.

21. On or about January 6, 2011, respondent made a note stating his intention to perform an unannounced drug screen on patient BS. A urine drug screen was not performed during this visit.

22. On or about January 24, 2011, patient BS claimed his medications were lost during a family gathering.

23. On or about November 29, 2012, patient BS claimed his medications were stolen during a family gathering.

24. On or about April 29, 2013, patient BS signed a pain contract. During this visit, patient BS submitted to a urine drug screen, which yielded positive results for Oxycodone, antidepressants, and phencyclidine.[5]

25. On or about June 1, 2014, patient BS submitted to a urine drug screen, which yielded positive results for amphetamines,[6] opiates and tricyclic antidepressants. During this visit, patient

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[5] Phencyclidine is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (e), and a dangerous drug pursuant to Business and Professions Code section 4022.

[6] Amphetamine is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

BS admitted taking Soma[7] and Norco.

26. At no time during his care and treatment of patient BS did respondent document patient BS's current or past alcohol and/or drug abuse history, obtain further information to confirm patient BS was actually taking the medications patient BS claimed to be taking during his initial visit, document discussing the specific risks associated with controlled substance medications, or seek alternative treatment regimens to reduce the risk to patient BS.

27. From 2007 through 2015, respondent continued to prescribe high doses of opioids without any clear positive response, such as decreased pain levels. Respondent's progress notes for his visits with patient BS did not contain any clear assessment of patient BS's pain level, any clear objectives for treatment, or any clear inquiry or documentation by respondent of the use of CURES[8] or any other risk assessment tools that may have assessed the risk of aberrant behaviors by patient BS, while respondent continuously prescribed high doses of opioid medications to patient BS.

28. From 2007 through 2015, respondent did not refer patient BS to a pain management specialist, maintain a medication log sheet or medication list, prepare any detailed management plan, document or indicate periodic drug screening, or document efforts to monitor compliance to ensure patient BS was not diverting controlled substances or taking additional controlled substances.

29. Respondent committed gross negligence in his care and treatment of patient BS, which included, but was not limited to, the following:

(a) Paragraphs 12 through 28, above, are hereby incorporated by reference as if fully set forth herein;

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[7] Soma is the brand name for Carisoprodol, a Schedule IV controlled substances pursuant to 21 C.F.R. § 1308, and a dangerous drug pursuant to Business and Professions Code section 4022.

[8] CURES is the Controlled Substances Utilization Review and Evaluation System (CURES), a database of Schedule II, III and IV controlled substance prescriptions dispensed in California serving the public health, regulatory oversight agencies, and law enforcement.

(b) Respondent failed to develop an adequate treatment plan, discuss treatment goals, conduct a functional assessment or conduct ongoing monitoring while prescribing opioids and controlled substances;

(c) Respondent failed to perform and document adequate ongoing monitoring while prescribing dangerous opioids and controlled substance medications on a frequent basis over an extended period of time; and

(d) Respondent failed to follow the standards of care in prescribing and/or refilling opioids and controlled substance medications to an addict.

Patient KM

30. On or about November 13, 2008, respondent was treating patient KM for, among other things, neck and shoulder pain. Over the years, respondent prescribed patient KM various controlled substances, including but not limited to, Oxycodone, Fentanyl, Alprazolam,[9] Carisoprodol,[10] and Zolpidem.[11]

31. Between on or about October 6, 2010, through on or about October 6, 2015, respondent prescribed patient KM approximately 91 prescriptions of Oxycodone for a total of 19,854 tablets.

32. Between on or about October 6, 2010, through on or about October 6, 2015, respondent prescribed patient KM approximately 46 prescriptions of Fentanyl for a total of 635 patches.

33. Between on or about October 6, 2010, through on or about October 6, 2015, respondent prescribed patient KM approximately 14 prescriptions of Alprazolam for a total of 900 tablets.

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[9] Alprazolam is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

[10] Carisoprodol is a Schedule IV controlled substances pursuant to 21 C.F.R. § 1308, and a dangerous drug pursuant to Business and Professions Code section 4022.

[11] Zolpidem, brand name Ambien, is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

34. Between on or about October 6, 2010, through on or about October 6, 2015, respondent prescribed patient KM approximately 44 prescriptions of Carisoprodol for a total of 1,320 tablets.

35. Between on or about October 6, 2010, through on or about October 6, 2015, respondent prescribed patient KM approximately 28 prescriptions of Zolpidem for a total of 2,520 tablets.

36. Between on or about November 2008, through on or about April 2014, patient KM requested early refills of her medications on multiple occasions.

37. On or about January 20, 2010, patient KM underwent a Qualified Medical Exam for Worker's Compensation. The report stated patient KM needed to reduce her pain medications. The report mentioned patient KM experienced an incident where she became extremely dizzy and fell and hit her head.

38. On or about October 25, 2010, respondent made a note stating his intention to perform a urine drug screen on patient KM. A urine drug screen was not performed during this visit.

39. On or about July 9, 2012, patient KM stated her medication was not working, so she doubled her prescribed amount.

40. On or about April 26, 2013, patient KM reported incidents of falling and experienced increased pain as a result. During this time, respondent was prescribing patient KM a combination of opioids, benzodiazepines, and soma, also known as the "Holy Trinity."[12]

41. On or about June 10, 2013, patient KM reported additional incidents of falling. Respondent refilled patient KM's medications without exploring the causes of her falls.

42. On or about July 3, 2013, patient KM again reported incidents of falling and requested an early refill of her medications, stating she would be going out of town.

43. On or about July 25, 2013, patient KM requested an early refill of her medications, stating she came back in town due to increased pain. Respondent refilled her medications.

[12] "Holy Trinity" is a term used to refer to the three medications often used by drug seekers to get high, opioids, benzodiazepines, and soma.

44. On or about October 25, 2013, patient KM underwent another Qualified Medical Exam for Worker's Compensation. The report concluded patient KM had an addiction problem and needed to attend drug rehabilitation. Respondent disagreed with this assessment and refilled patient KM's medications.

45. On or about January 1, 2014, patient KM was hospitalized for drug overdose. Patient KM was transferred to a rehabilitation facility where patient KM submitted urine drug screens. These drug screens yielded positive results for methadone and other drugs.

46. On or about March 25, 2014, another physician informed respondent the combination of medications prescribed to patient KM was not appropriate and denied these medications.

47. On or about March 28, 2014, records show respondent believed patient KM was suffering from withdrawal. Respondent refilled patient KM's medications and did not ask patient KM to submit to a urine drug screen.

48. On or about April 11, 2014, patient KM died from Oxycodone intoxication. Patient KM's blood revealed a high concentration of Oxycodone, Alprazolam, and Oxymorphone.[13]

49. At no time during his care and treatment of patient KM did respondent have patient KM submit a urine drug screen.

50. At no time during his care and treatment of patient KM did respondent document patient KM's current or past alcohol and/or drug abuse history, obtain further information to confirm patient KM was actually taking the medications patient KM claimed to be taking during her initial visit, document discussing the specific risks associated with controlled substance medications, or seek alternative treatment regimens to reduce the risk to patient KM

51. From November 13, 2008 through April 11, 2014, respondent continued to prescribe high doses of opioids without any clear positive response, such as decreased pain levels. Respondent's progress notes for his visits with patient KM did not contain any clear objectives for treatment, or any clear inquiry or documentation by respondent of the use of CURES or any

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[13] Oxymorphone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

other risk assessment tools that may have assessed the risk of aberrant behaviors by patient KM, while respondent continuously prescribed high doses of opioid medications to patient KM.

52. From November 13, 2008 through April 11, 2014, respondent did not maintain a medication log sheet or medication list, prepare any detailed management plan, document or indicate periodic drug screening, or document efforts to monitor compliance to ensure patient KM was not diverting controlled substances or taking additional controlled substances.

53. Respondent committed gross negligence in his care and treatment of patient KM, which included, but was not limited to, the following:

(a) Paragraphs 30 through 52, above, are hereby incorporated by reference as if fully set forth herein;

(b) Respondent failed to develop an adequate treatment plan, discuss treatment goals, conduct a functional assessment or conduct ongoing monitoring while prescribing opioids and controlled substances;

(c) Respondent failed to perform and document adequate ongoing monitoring while prescribing dangerous opioids and controlled substance medications on a frequent basis over an extended period of time;

(d) Respondent prescribed excessive amounts of opioids and controlled substance medications without adequate documentation and appropriate examination or monitoring; and

(e) Respondent failed to follow the standards of care in prescribing and/or refilling opioids and controlled substance medications to an addict.

Patient CT

54. On or about December 19, 2011, respondent began treating patient CT for, among other things, lower back pain. Over the years, respondent prescribed patient CT various controlled substances, including but not limited to, Hydromorphone,[14] Hydrocodone, Carisoprodol, and Clonazepam.[15]

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[14] Hydromorphone, brand name Dilaudid, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

[15] Clonazepam is a Schedule IV controlled substance pursuant to Health and Safety Code section

(continued...)

55. Between on or about December 19, 2011, through on or about January 20, 2013, respondent prescribed patient CT approximately 10 prescriptions of Hydromorphone for a total of 2,280 tablets.

56. Between on or about December 19, 2011, through on or about January 20, 2013, respondent prescribed patient CT approximately 4 prescriptions of Hydrocodone for a total of 630 tablets.

57. Between on or about December 19, 2011, through on or about January 20, 2013, respondent prescribed patient CT approximately 11 prescriptions of Clonazepam for a total of 660 tablets.

58. Between on or about December 19, 2011, through on or about January 20, 2013, respondent prescribed patient CT approximately 8 prescriptions of Carisprodol for a total of 480 tablets.

59. On or about December 19, 2011, at patient CT's first visit with respondent, patient CT reported losing her medications when carpet cleaners came to her home. Respondent had patient CT sign a pain contract and then prescribed Hydromorphone as patient CT requested. During this visit, respondent did not have patient CT's prior medical records and was not aware she had been hospitalized, on October 15, 2011, for overdose of Hydromorphone.

60. On or about July 12, 2012, patient CT reported taking more medication than prescribed.

61. On or about September 17, 2012, patient CT and her husband informed respondent that patient CT had recently overdosed on Soma and Clonazepam.

62. On or about October 14, 2012, respondent received a call from a peer review doctor who observed patient CT was receiving three muscle relaxants along with opioids. Respondent stated he would advise patient CT to stop taking the muscle relaxants.

63. On or about October 15, 2012, respondent provided patient CT with an early refill for Hydromorphone because patient CT stated she was going out of town.

(...continued)
11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

64. On or about December 17, 2012, patient CT presented to the emergency department for overdose of Soma and Clonazepam.

65. On or about December 27, 2012, notes in patient CT's records indicate patient CT was directed to stop taking Hydromorphone. On or about January 15, 2013, patient CT's last visit, respondent prescribed Hydromorphone to patient CT, and in this prescription, respondent increased the dosage from 2 mg to 4 mg.

66. On or about January 20, 2013, patient CT died from multiple drug intoxication, including Hydrocodone, Cyclobenzaprine,[16] Doxylamine[17] and others.

67. At no time during his care and treatment of patient CT did respondent have patient CT submit a urine drug screen.

68. At no time during his care and treatment of patient CT did respondent document patient CT's current or past alcohol and/or drug abuse history, obtain further information to confirm patient CT was actually taking the medications patient CT claimed to be taking during her initial visit, document discussing the specific risks associated with controlled substance medications, or seek alternative treatment regimens to reduce the risk to patient CT.

69. From 2011 through 2013, respondent continued to prescribe high doses of opioids without any clear positive response, such as decreased pain levels. Respondent's progress notes for his visits with patient CT did not contain any clear assessment of patient CT's pain level, any clear objectives for treatment, or any clear inquiry or documentation by respondent of the use of CURES or any other risk assessment tools that may have assessed the risk of aberrant behaviors by patient CT, while respondent continuously prescribed high doses of opioid medications to patient CT.

70. From 2011 through 2013, respondent did not refer patient CT to a pain management specialist, maintain a medication log sheet or medication list, prepare any detailed management plan, document or indicate periodic drug screening, or document efforts to monitor compliance to

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[16] Cyclobenzaprine, brand name Flexeril, is a muscle relaxant. It is a dangerous drug pursuant to Business and Professions Code section 4022.

[17] Doxylamine is an over-the-counter antihistamine with sedative effects.

ensure patient CT was not diverting controlled substances or taking additional controlled substances.

71. Respondent committed gross negligence in his care and treatment of patient CT, which included, but was not limited to, the following:

(a) Paragraphs 54 through 70, above, are hereby incorporated by reference as if fully set forth herein;

(b) Respondent failed to perform an adequate and appropriate history and physical exam prior to prescribing and/or refilling prescriptions for controlled substances;

(c) Respondent failed to develop an adequate treatment plan, discuss treatment goals, conduct a functional assessment or conduct ongoing monitoring while prescribing opioids and controlled substances;

(d) Respondent failed to document an adequate history and/or physical exam while prescribing opioids and controlled substance medications on a frequent basis over an extended period of time;

(e) Respondent failed to perform and document adequate ongoing monitoring while prescribing dangerous opioids and controlled substance medications on a frequent basis over an extended period of time; and

(f) Respondent failed to follow the standards of care in prescribing and/or refilling opioids and controlled substance medications to an addict.

Patient GN

72. In 2003, respondent began treating patient GN for, among other things, knee, shoulder, and neck pain. Over the years, respondent prescribed patient GN various controlled substances, including but not limited to, Hydrocodone, Morphine,[18] Methadone,[19] Fentanyl, and Clonazepam.

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[18] Morphine is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

[19] Methadone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (c), and a dangerous drug pursuant to Business and Professions Code section 4022.

73. Between on or about November 10, 2005, through on or about November 10, 2015, respondent prescribed patient GN approximately 99 prescriptions of Hydrocodone for a total of 12,300 tablets.

74. Between on or about July 21, 2009, through on or about November 10, 2015, respondent prescribed patient GN approximately 8 prescriptions of Clonazepam for a total of 450 tablets.

75. Between on or about November 10, 2005, through on or about November 10, 2015, respondent prescribed patient GN approximately 39 prescriptions of Fentanyl for a total of 557 patches.

76. Beginning around 2003, through 2011, respondent had contact with patient GN on a regular basis, approximately once per month. Between 2003 and 2011, respondent saw patient GN approximately 142 times. On several office visits, patient GN requested early refills of his medications or an increase of his medications. During several visits, patient GN admitted taking more medication per day than prescribed. During several visits, patient GN refused a urine drug screen test.

77. On or about March 20, 2006, patient GN claimed his medication had been stolen.

78. On or about September 2006, patient GN claimed his Fentanyl patches kept falling off.

79. On or about January 23, 2008, patient GN admitting taking more Norco than was needed and claimed his Duragesic patches did not work and that the patches would often fall off. Respondent prescribed an increased dosage for Norco to patient GN.

80. On or about December 17, 2008, patient GN requested an early refill after running out of his medication early.

81. On or about May 26, 2009, patient GN claimed his medications were stolen.

82. On or about February 2, 2011, patient GN signed a pain contract after respondent discovered patient GN had obtained prescriptions for methadone from another physician.

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83. On or about December 2, 2009, patient GN was hospitalized for metabolic acidosis. A urine toxicology screen revealed benzodiazepines, methadone, methamphetamines, opiates, and oxycodone. Patient GN was diagnosed with poly drug abuse.

84. On or about March 18, 2011, respondent discovered patient GN was obtaining opiate prescriptions from another physician and getting medications filled at two pharmacies.

85. On or about March 28, 2011, patient GN claimed his trailer had been flooded and all his medications had been ruined.

86. On or about May 23, 2011, patient GN claimed he ran out of Fentanyl patches early because they kept falling off.

87. On or about June 17, 2011, patient GN fell and broke his thumb.

88. On or about June 20, 2011, patient GN fell when his left ankle gave out on him.

89. On or about August 19, 2011, patient GN died from, among other things, Fentanyl intoxication.

90. At no time during his care and treatment of patient GN did respondent document patient GN's current or past alcohol and/or drug abuse history, obtain further information to confirm patient GN was actually taking the medications patient GN claimed to be taking during his initial visit, document discussing the specific risks associated with controlled substance medications, or seek alternative treatment regimens to reduce the risk to patient GN.

91. From 2003 through 2011, respondent continued to prescribe high doses of opioids without any clear positive response, such as decreased pain levels. Respondent's progress notes for his visits with patient GN did not contain any clear assessment of patient GN's pain level, any clear objectives for treatment, or any clear inquiry or documentation by respondent of the use of CURES or any other risk assessment tools that may have assessed the risk of aberrant behaviors by patient GN, while respondent continuously prescribed high doses of opioid medications to patient GN.

92. From 2003 through 2011, respondent did not refer patient GN to a pain management specialist, maintain a medication log sheet or medication list, prepare any detailed management plan, document or indicate periodic drug screening, or document efforts to monitor compliance to

ensure patient GN was not diverting controlled substances or taking additional controlled substances.

93. Respondent committed gross negligence in his care and treatment of patient GN, which included, but was not limited to, the following:

(a) Paragraphs 72 through 92, above, are hereby incorporated by reference as if fully set forth herein;

(b) Respondent failed to perform an adequate and appropriate history and physical exam prior to prescribing and/or refilling prescriptions for controlled substances;

(c) Respondent failed to develop an adequate treatment plan, discuss treatment goals, conduct a functional assessment or conduct ongoing monitoring while prescribing opioids and controlled substances;

(d) Respondent failed to document an adequate history and/or physical exam while prescribing opioids and controlled substance medications on a frequent basis over an extended period of time;

(e) Respondent failed to perform and document adequate ongoing monitoring while prescribing dangerous opioids and controlled substance medications on a frequent basis over an extended period of time;

(f) Respondent prescribed excessive amounts of opioids and controlled substance medications without adequate documentation and appropriate examination or monitoring; and

(g) Respondent failed to follow the standards of care in prescribing and/or refilling opioids and controlled substance medications to an addict.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

94. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 35254 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his care and treatment of patients DF, BS, KM, CT, and GN, as more particularly alleged hereinafter:

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Patient DF

95. In 2005, respondent began treating patient DF for, among other things, plantar fasciitis, ankle pain, and back pain. Over the years,[20] respondent prescribed patient DF various controlled substances, including but not limited to, Oxycodone, Hydrocodone, Methadone, Morphine, Phentermine,[21] and Buprenorphine.[22]

96. Between on or about September 1, 2008, through on or about September 29, 2015, respondent prescribed patient DF approximately 16 prescriptions of Oxycodone for a total of 1,260 tablets.

97. Between on or about September 1, 2008, through on or about September 29, 2015, respondent prescribed patient DF approximately 31 prescriptions of Hydrocodone for a total of 6,490 tablets.

98. Between on or about March 27, 2015, through on or about September 29, 2015, respondent prescribed patient DF approximately 8 prescriptions of Methadone for a total of 930 tablets.

99. Between on or about June 15, 2009, through on or about September 29, 2015, respondent prescribed patient DF approximately 17 prescriptions of Phentermine for a total of 510 tablets.

100. Between on or about May 15, 2015, through on or about September 29, 2015, respondent prescribed patient DF approximately 5 prescriptions of Buprenorphine for a total of 20 patches.

101. Between on or about 2008, through on or about 2010, respondent prescribed patient DF high amounts of acetaminophen (in excess of 5 mg per day) for an extended period of time.

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[20] Between on or about October 2010, through on or about March 2015, patient DF moved to Nevada, as such, there is no prescribing history for this time period.

[21] Phentermine is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (f), and a dangerous drug pursuant to Business and Professions Code section 4022. It is a stimulant and an appetite suppressant.

[22] Buprenorphine, brand name Butrans, is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

At no time did respondent inform patient DF that this level of acetaminophen places patient DF at risk for liver failure. At no time did respondent conduct liver tests on patient DF.

102. Beginning around June 2009, respondent began prescribing Phentermine to patient DF. Respondent continued to prescribe Phentermine to patient DF for a period of approximately 16 months, when the recommended use is for only 6 to 12 months. Records show minimal documentation regarding patient DF's need for Phentermine and no significant explanation regarding patient DF's weight history or weight-loss attempt history.

103. On or about June 6, 2010, records indicate patient DF was experiencing withdrawal symptoms from Norco. Respondent then prescribed Vicodin to patient DF.

104. At no time during his care and treatment of patient DF did respondent document patient DF's current or past alcohol and/or drug abuse history, obtain further information to confirm patient DF was actually taking the medications patient DF claimed to be taking during her initial visit, document discussing the specific risks associated with controlled substance medications, or seek alternative treatment regimens to reduce the risk to patient DF.

105. From 2005 through 2015, respondent continued to prescribe high doses of opioids without any clear positive response, such as decreased pain levels. Respondent's progress notes for his visits with patient DF did not contain any clear assessment of patient DF's pain level, any clear objectives for treatment, or any clear inquiry or documentation by respondent of the use of CURES or any other risk assessment tools that may have assessed the risk of aberrant behaviors by patient DF, while respondent continuously prescribed high doses of opioid medications to patient DF.

106. From 2005 through 2015, respondent did not refer patient DF to a pain management specialist, maintain a medication log sheet or medication list, prepare any detailed management plan, document or indicate periodic drug screening, or document efforts to monitor compliance to ensure patient DF was not diverting controlled substances or taking additional controlled substances.

107. Respondent committed repeated negligent acts in his care and treatment of patient DF, which included, but was not limited to, the following:

(a) Respondent failed to perform an adequate and appropriate history and physical exam prior to prescribing and/or refilling prescriptions for controlled substances;

(b) Respondent failed to develop an adequate treatment plan, discuss treatment goals, conduct a functional assessment or conduct ongoing monitoring while prescribing opioids and controlled substances;

(c) Respondent failed to discuss the major potential risks of the controlled substances in spite of prescribing multiple dangerous medications;

(d) Respondent failed to document an adequate history and/or physical exam while prescribing opioids and controlled substance medications on a frequent basis over an extended period of time;

(e) Respondent failed to perform and document adequate ongoing monitoring while prescribing dangerous opioids and controlled substance medications on a frequent basis over an extended period of time;

(f) Respondent prescribed excessive amounts of opioids and controlled substance medications without adequate documentation and appropriate examination or monitoring; and

(g) Respondent failed to prescribe acetaminophen in a safe and monitored manner.

Patient BS

108. Respondent committed repeated negligent acts in his care and treatment of patient BS, which included, but was not limited to, the following:

(a) Paragraphs 12 through 29, above, are hereby incorporated by reference and realleged as if fully set forth herein;

(b) Respondent failed to perform an adequate and appropriate history and physical exam prior to prescribing and/or refilling prescriptions for controlled substances;

(c) Respondent failed to discuss the major potential risks of the controlled substances in spite of prescribing multiple dangerous medications;

(d) Respondent failed to document an adequate history and/or physical exam while prescribing opioids and controlled substance medications on a frequent basis over an extended period of time; and

(e) Respondent prescribed excessive amounts of opioids and controlled substance medications without adequate documentation and appropriate examination or monitoring.

Patient KM

109. Respondent committed repeated negligent acts in his care and treatment of patient KM, which included, but was not limited to, the following:

(a) Paragraphs 30 through 53, above, are hereby incorporated by reference and realleged as if fully set forth herein;

(b) Respondent failed to perform an adequate and appropriate history and physical exam prior to prescribing and/or refilling prescriptions for controlled substances;

(c) Respondent failed to discuss the major potential risks of the controlled substances in spite of prescribing multiple dangerous medications; and

(d) Respondent failed to document an adequate history and/or physical exam while prescribing opioids and controlled substance medications on a frequent basis over an extended period of time.

Patient CT

110. Respondent committed repeated negligent acts in his care and treatment of patient CT, which included, but was not limited to, the following:

(a) Paragraphs 54 through 71, above, are hereby incorporated by reference and realleged as if fully set forth herein;

(b) Respondent failed to discuss the major potential risks of the controlled substances in spite of prescribing multiple dangerous medications; and

(c) Respondent prescribed excessive amounts of opioids and controlled substance medications without adequate documentation and appropriate examination or monitoring.

Patient GN

111. Respondent committed repeated negligent acts in his care and treatment of patient GN, which included, but was not limited to, the following:

(a) Paragraphs 72 through 93, above, are hereby incorporated by reference and realleged as if fully set forth herein; and

(b) Respondent failed to discuss the major potential risks of the controlled substances in spite of prescribing multiple dangerous medications.

THIRD CAUSE FOR DISCIPLINE

(Repeated Acts of Excessive Prescribing)

112. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 35254 to disciplinary action under sections 2227 and 725 of the Code, in that respondent engaged in repeated acts of clearly excessively prescribing dangerous drugs or treatment as determined by the standard of the community of licensees in his care and treatment of patients DF, BS, KM, CT, and GN, as more particularly alleged in paragraphs 11 through 111, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Furnishing Drugs to an Addict)

113. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 35254 to disciplinary action under sections 2227 and 2234, as defined by section 2241, of the Code, in that respondent prescribed controlled substances and dangerous drugs to patients BS, KM, CT, and GN, whom he knew or reasonably should have known were using or would be using the controlled substances and dangerous drugs for a nonmedical purpose, as more particularly alleged in paragraphs 11 through 93, and paragraphs 108 through 111, (every patient except DF) above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

114. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 35254 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that respondent failed to maintain adequate and accurate records regarding his care and treatment of patients DF, BS, KM, CT, and GN, as more particularly alleged in paragraphs 11 through 111, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

SIXTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

115. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 35254 to disciplinary action under sections 2227 and 2234 of the Code, in that respondent has engaged in conduct which breached the rules or ethical code of the medical profession or which was unbecoming of a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, in his care and treatment of patients DF, BS, KM, CT, and GN, as more particularly alleged in paragraphs 11 through 111, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

PRAYER

WHEREFORE, complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate No. A 35254, issued to respondent, Surinder Kumar Uppal, M.D.;

2. Revoking, suspending or denying approval of respondent, Surinder Kumar Uppal, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering respondent, Surinder Kumar Uppal, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: October 21, 2016

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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